

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 434

**Introduced by Senators Benoit and Huff
(Principal coauthor: Senator Padilla)**

February 26, 2009

An act to add Section 4576 to the Penal Code, relating to correctional facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 434, as amended, Benoit. Correctional facilities: wireless communication devices.

Existing law establishes various offenses relating to the unauthorized provision of specified items to persons confined in local and state correctional facilities.

This bill would provide, subject to exceptions, that ~~any person who is in possession of, or who willingly and knowingly delivers, or attempts to deliver, to any person who is confined in, or within the grounds belonging to or adjacent to, any state prison, prison road camp, prison forest camp, any other prison camp or prison farm, or any other place where prisoners are located and under the custody of the Department of Corrections and Rehabilitation, any cellular telephone or other wireless communication device, is guilty of a felony. any inmate or ward who possesses any cellular telephone or other wireless communication device or any person who possesses with the intent to deliver, or delivers, to an inmate or ward in the custody of the Department of Corrections and Rehabilitation, any cellular telephone or other wireless communication device is guilty of a misdemeanor, punishable by a fine not exceeding \$5,000. The bill would also provide that persons visiting an inmate are subject to search, as specified, and~~

that any cellular telephone or wireless communication device found as a result of the search would be confiscated. The bill would require posted notices regarding those search and confiscation provisions, as specified.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4576 is added to the Penal Code, to read:
2 4576. (a) Except as otherwise authorized by law, or when
3 authorized by the person in charge of the prison or other institution
4 subject to this section, or by an officer of the institution empowered
5 to give that authorization, ~~any person who is in possession of, or~~
6 ~~who willingly and knowingly delivers, or attempts to deliver, to~~
7 ~~any person who is confined in, or within the grounds belonging to~~
8 ~~or adjacent to, any state prison, prison road camp, prison forest~~
9 ~~camp, any other prison camp or prison farm, or any other place~~
10 ~~where prisoners are located and under the custody of the~~
11 ~~Department of Corrections and Rehabilitation, any cellular~~
12 ~~telephone or other wireless communication device, is guilty of a~~
13 ~~felony. and except as provided in subdivision (b), any inmate or~~
14 ~~ward who possesses any cellular telephone or other wireless~~
15 ~~communication device or any person who possesses with the intent~~
16 ~~to deliver, or delivers, to an inmate or ward in the custody of the~~
17 ~~Department of Corrections and Rehabilitation, any cellular~~
18 ~~telephone or other wireless communication device, is guilty of a~~
19 ~~misdemeanor, punishable by a fine not to exceed five thousand~~
20 ~~dollars (\$5,000).~~
21 (b) When any person visiting an inmate in the custody of the
22 Department of Corrections and Rehabilitation who, upon being
23 searched or subjected to a metal detector, is found to be in
24 possession of a cellular telephone or other wireless communication

1 *device, that device shall be subject to confiscation. Notice of this*
2 *provision shall be posted in all areas where visitors are searched*
3 *prior to visitation with an inmate in the custody of the Department*
4 *of Corrections and Rehabilitation.*

5 SEC. 2. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.